

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KRISTY MARIE MARTINEZ,)	
)	
Petitioner,)	
)	
v.)	Cause No. 4:07 CV 2001 RWS
)	
CYNDI PRUDDEN,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before me on a Report and Recommendation to deny Petitioner Kristy Marie Martinez's writ of habeas corpus under 28 U.S.C. § 2254. I referred this matter to United States Magistrate Judge Lewis M. Blanton for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On February 4, 2011, Judge Blanton filed his recommendation that Martinez's habeas petition should be denied.

Objections to Judge Blanton's Report and Recommendation were due to be filed by February 16, 2011. As of the date of this order, no objections to the Report and Recommendation has been filed. After careful consideration, I will adopt and sustain the thorough and reasonable analysis of Judge Blanton and will deny Martinez's habeas petition for the reasons stated in the Report and Recommendation dated February 4, 2011.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a Court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569


(8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because petitioner has not made such a showing in this case, I will not issue a certificate of appealability.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation filed on February 4, 2011 is **SUSTAINED, ADOPTED AND INCORPORATED** herein.

IT IS FURTHER ORDERED that Petitioner Kristy Marie Martinez's Petition for Writ of Habeas Corpus is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability. A separate Judgment in accordance with this Memorandum and Order is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 25th day of February, 2011.